

## **REMARKS**

Claims 1-10 and 12-32 are pending in the application. No claims have been added, cancelled, or amended. Claims 1-10 and 12-32 accordingly remain pending in the application.

### **35 U.S.C. § 103(a) Rejections**

Claims 1-5, 13, 20, 28, and 29-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2003/0066084 (hereinafter “Kaars”) in view of newly cited U.S. Patent No. 6,040,829 (hereinafter “Croy”). Claims 6, 7, 14, 15, 16, 21, 22, 23, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of Croy in further view of U.S. Patent No. 6,449,767 (hereinafter “Krapf”). Claims 8, 17, 22, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars and Croy in further view of U.S. Publication No. 2003/0110513 (hereinafter “Plourde”). Claims 9, 10, 18, 19, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars and Croy in further view of U.S. Publication No. 2002/0104019 (hereinafter “Chatani”). Claims 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars and Croy in further view of U.S. Patent No. 6,532,593 (hereinafter “Moroney”). Applicant respectfully traverses these rejections and requests reconsideration in view of the following comments.

Claim 1 recites a television system including a secondary device and a transcode subsystem that is configured, in part, to:

“detect a communication from the secondary device;  
determine a target data format corresponding to the secondary device;  
convey a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format; ...”

It is noted that the secondary device is a single device:

- a) from which the transcode subsystem detects a communication,
- b) to which the target data format corresponds, and
- c) that uses a data format the transcode subsystem is not configured to support.

Applicant respectfully submits the combination proposed in the present rejection does not meet the claim features. In the present Office Action, the Examiner contends Kaars discloses a secondary device (150) communicating via an interface (104), determining a target data format corresponding to the secondary device (paragraph 28), and conveying a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format (paragraphs 28 and 35), except that Kaars does not disclose a system to detect a communication from the secondary device. The Examiner suggests Croy teaches a system to detect a communication from the secondary device at column 4, lines 10-37 and that

“At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the two-way remote control device taught by Croy to replace the one-way remote control system disclosed by Kaars.”

However, Applicant submits adding two-way communication as taught by Croy to Kaars does not produce the invention as currently claimed. For example, the proposed combination does not produce a single device from which the transcode subsystem detects a communication and that requires a data format that is not supported by the transcode subsystem. Adding Croy's two-way communication enables a device to communicate with Kaars's transcode subsystem if and only if the device uses a data format that the transcode subsystem is configured to support. However such a device, communicating with the transcode subsystem via a supported data format, is not equivalent to the recited secondary device.

Accordingly, Applicant finds no teaching or suggestion in the cited art, taken singly or in combination, of “a transcode subsystem coupled to the receiver and the interface, wherein the transcode subsystem is configured to: detect a communication from the

secondary device; determine a target data format corresponding to the secondary device; convey a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format;” as is recite in claim 1. For at least these reasons, Applicant submits claim 1 is patentably distinct from the cited art. As independent claims 13 and 20 include features similar to those of claim 1, claims 13 and 20 are believed patentable distinct for similar reasons. As each of the dependent claims includes at least the features of the independent claim upon which it depends, each of the dependent claims is believed patentable as well.

In addition, it is noted that Kaars system requires a user input to determine the device for which to provide transcoding. Kaars discloses diverse output devices that are coupled to the transcoding system, none of which convey communications to the transcoding device. Instead, Kaars teaches that a user interface is provided “to enable a user to provide information based upon which the processor transcodes the data.” (Kaars [0022]). However, whether the information is provided by Croy’s remote control or by one of Kaars’s other devices, any of these devices that is capable of enabling a user to provide such information must do so using properly formatted data. Consequently, the transcoding device is necessarily configured to support the target data format of the device through which user input is provided. In the proposed combination system of Kaars and Croy, any device that requires transcoding that the transcoding unit is not configured to provide would not be capable of enabling a user to provide information based upon which the processor transcodes the data, since the display portion of user interface itself requires proper data formatting. Instead, Kaars system (with or without the remote control of Croy) uses user input from a first device to provide information based upon which the processor transcodes data for a second device. Accordingly, Applicant finds no teaching or suggestion in the cited art, taken singly or in combination, of “wherein the transcode subsystem is configured to: detect a communication from the secondary device; determine a target data format corresponding to the secondary device; convey a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format;” as is recite in claim 1. For

at least these additional reasons, Applicant submits claim 1 is patentably distinct from the cited art. As independent claims 13 and 20 include features similar to those of claim 1, claims 13 and 20 are believed patentable distinct for similar reasons.

Also, the dependent claims recite additional features neither taught nor suggested by the cited art. For example, claim 8 recites

“wherein the transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available.”

In the present Office Action, the Examiner admits Kaars and Croy do not disclose these features but maintains the rejection of claim 8 by contending Plourde teaches these features at page 14, paragraph 107, lines 22-24. Applicant previously argued that Plourde says nothing about “determining no transcode subunit corresponding to both the first data format and the target data format is available.” In response to this argument, on page 4-5 of the present Office Action, the Examiner contends

“Kaars always determines whether the first data format is compatible with the second device. Plourde is used to teach that there might be a situation arise wherein there is no codec can be found as the data rate is too high to be decoded by the device using the available codecs then the data is discarded.”

However, Plourde bases the decision of whether or not to refuse a download on the bit rate of the download. The Examiner appears to be suggesting that a bit rate that is too high implies that there is no codec available. Applicant finds no support in Plourde for this idea. Plourde teaches:

“FIGS. 11 through 15 are block diagrams that illustrate how PVR application 377 management of the TSB 378 effects operations at the hard disk 300 of the storage device 373. FIG. 11 is non-limiting illustrative example of the hard disk 300 in storage device 373. The hard disk 300 has a finite amount of hard disk drive space. Assume for this example a 40 GB hard disk. Also assume that the PVR application 377 will maintain a 3-hour buffer (i.e. a 3-hour TSB 378), which, based on a substantially constant data

rate of 2 Mbps at standard quality, equates to a TSB 378 of approximately 3 GB. Alternatively, other variable or constant data rates may be used. For example, regardless of the bit rate, the PVR application 377 continuously queries the device driver 311 (FIG. 3A) for information regarding hard disk space. If the bit rate is fast, the PVR application 377 will delete files at a faster rate than if the bit rate is slow. In some embodiments, excessive data rates, such as those associated with high definition TV (HDTV) and quickly consume the TSB 378. In such embodiments, the PVR application 377 can determine the quality level from the incoming content stream, or monitor how fast disk space is being consumed. If the bit rate is excessive, the PVR application 377 can cause the content to bypass the TSB 378 and either be permanently recorded, or refused as a download. In other embodiments, such as DHCTs with large enough hard disk drives to handle HDTV, practically any bit rate can be accommodated by the TSB 378. “ (Plourde, [0107], emphasis added).

As may be seen from the above, Plourde rejects high bit rates because they could potentially overflow the time shift buffer (TSB). It is entirely consistent for Plourde's system to reject high bit rates even when a suitable codec is available. Plourde makes no explicit connection between bit rate and the availability of a codec. The Examiner's contention that “there might be a situation arise wherein there is no codec can be found as the data rate is too high to be decoded by the device using the available codecs” appears to be nothing more than speculation, as Applicant finds no such teaching in Plourde. In fact, Plourde suggests that buffer size, not codec availability is the determining factor, teaching that, “with large enough hard disk drives to handle HDTV, practically any bit rate can be accommodated by the TSB.” Accordingly, Applicant submits the cited art fails to teach or suggest that a “transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available,” as is recited in claim 8. For at least these reasons, Applicant submits that claim 8 is patentably distinct from the cited art, taken either singly or in combination. As claims 17, 24, and 26 recite features similar to those of claim 8, claims 17, 24, and 26 are believed patentably distinct from the cited art for similar reasons.

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited.

If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

**CONCLUSION**

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-04300/RDR.

Respectfully submitted,

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